



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5646

Introduced 2/15/2012, by Rep. Anthony DeLuca

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-120

Amends the Code of Civil Procedure. Provides that if a lease contains the required notice, no additional termination notice or demand for possession is required to initiate a forcible entry and detainer action based on the use of the premises for criminal activity, however, a notice specifying the lease violations shall be mailed to the lessee and posted on the premises. Provides that the office of the State's Attorney or the corporation counsel of the municipality in which the property is located shall give a written response within 3 days after receiving a lessor's request for the office to accept an assignment of the lessor's right to bring a forcible entry and detainer action. Provides that the owner or lessor remains liable for the court cost of the eviction and fees to the sheriff for execution of an order for possession (instead of liable for the cost of eviction) whether or not the right to bring the forcible entry and detainer action has been assigned. Deletes language stating that this provision shall not be construed to diminish the lessor's rights to terminate a lease for other lawful reasons or under the lease. Makes other changes.

LRB097 18268 AJO 65687 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 9-120 as follows:

6 (735 ILCS 5/9-120)

7 Sec. 9-120. Leased premises used in furtherance of a
8 criminal offense; lease void at option of lessor or assignee.

9 (a) If any lessee or occupant, on one or more occasions,
10 uses or permits the use of leased premises for the commission
11 of any act that would constitute a felony or a Class A
12 misdemeanor under the laws of this State, the lease or rental
13 agreement shall, at the option of the lessor or the lessor's
14 assignee become void, and the owner or lessor shall be entitled
15 to recover possession of the leased premises as against a
16 tenant holding over after the expiration of his or her term. A
17 written lease shall notify the lessee that if any lessee or
18 occupant, on one or more occasions, uses or permits the use of
19 the leased premises for the commission of a felony or Class A
20 misdemeanor under the laws of this State, the lessor shall have
21 the right to void the lease and recover the leased premises.
22 ~~Failure to include this language in a written lease or the use~~
23 ~~of an oral lease shall not waive or impair the rights of the~~

1 ~~lessor or lessor's assignee under this Section or the lease.~~
2 ~~This Section shall not be construed so as to diminish the~~
3 ~~rights of a lessor, if any, to terminate a lease for other~~
4 ~~reasons permitted under law or pursuant to the lease agreement.~~

5 (a-5) In actions brought under this Section, when the
6 required notice is included in a written lease, no additional
7 notice of termination or demand for possession shall be
8 required to initiate a forcible entry and detainer action,
9 however, notice specifying all alleged violations of the lease
10 to be considered by the court shall be delivered to the lessee
11 by sending a copy by certified mail and by posting the notice
12 on the premises. Failure to include the required notice in a
13 lease, or the fact that the lease is oral, shall not waive or
14 impair the rights of the lessor or the lessor's assignee under
15 this Section or the lease, but the lessor shall be required to
16 deliver a 5-day notice to quit to lessee specifying all alleged
17 violations of the lease to be considered by the court prior to
18 initiating a forcible entry and detainer action.

19 (b) The owner or lessor may bring a forcible entry and
20 detainer action under this Section. When the lessor has
21 received notification from any government office alleging that
22 an act occurred that would constitute a felony or a Class A
23 misdemeanor and ~~, or,~~ if the State's Attorney of the county in
24 which the real property is located or the corporation counsel
25 of the municipality in which the real property is located
26 agrees, the lessor may assign to that State's Attorney or

1 corporation counsel the right to bring a forcible entry and
2 detainer action on behalf of the owner or lessor, against the
3 lessee and all occupants of the leased premises. A lessor's
4 request to the office of the State's Attorney or the
5 corporation counsel that the office accept an assignment of the
6 lessor's right to bring a forcible entry and detainer action
7 under this Section shall be in writing and the office of the
8 State's Attorney or the corporation counsel to which the
9 request is made shall respond in writing within 3 days after
10 receipt of the request. The assignment must be in writing on a
11 form prepared by the State's Attorney of the county in which
12 the real property is located or the corporation counsel of the
13 municipality in which the real property is located, as
14 applicable. If the owner or lessor assigns the right to bring a
15 forcible entry and detainer action, the assignment shall be
16 limited to those rights and duties up to and including delivery
17 of the order of eviction to the sheriff for execution. The
18 owner or lessor shall remain liable for the court cost of the
19 eviction and fees to the sheriff for execution of a judgment
20 for possession whether or not the right to bring the forcible
21 entry and detainer action has been assigned.

22 (c) A person does not forfeit any part of his or her
23 security deposit due solely to an eviction under the provisions
24 of this Section, except that a security deposit may be used to
25 pay fees charged by the sheriff for carrying out an eviction
26 and for any other purpose defined by the lease agreement.

1 (d) If a lessor or the lessor's assignee voids a lease or
2 contract under the provisions of this Section, notwithstanding
3 ~~and the tenant or occupant has not vacated the premises within~~
4 ~~5 days after receipt of a written notice to vacate the~~
5 ~~premises, the lessor or lessor's assignee may seek relief under~~
6 ~~this Article IX. Notwithstanding~~ Sections 9-112, 9-113, and
7 9-114 of this Code, judgment for costs against a plaintiff
8 seeking possession of the premises under this Section shall not
9 be awarded to the defendant unless the action was brought by
10 the plaintiff in bad faith. An action to possess premises under
11 this Section shall not be deemed to be in bad faith when the
12 plaintiff based his or her cause of action on information
13 provided to him or her by a law enforcement agency, the State's
14 Attorney, or the municipality.

15 (e) After a trial, if the court finds, by a preponderance
16 of the evidence, that any of the allegations in the complaint
17 have been proven, the court shall enter judgment for possession
18 of the premises in favor of the plaintiff and the court shall
19 order that the plaintiff shall be entitled to re-enter the
20 premises immediately.

21 (f) A judgment for possession of the premises entered in an
22 action brought by a lessor or lessor's assignee, if the action
23 was brought as a result of a lessor or lessor's assignee
24 declaring a lease void pursuant to this Section, may not be
25 stayed for any period in excess of 7 days by the court unless
26 all parties agree to a longer period. Thereafter the plaintiff

1 shall be entitled to re-enter the premises immediately. The
2 sheriff or other lawfully deputized officers shall execute an
3 order entered pursuant to this Section within 7 days of its
4 entry, or within 7 days of the expiration of a stay of
5 judgment, if one is entered.

6 (g) Nothing in this Section shall limit the rights of an
7 owner or lessor to bring a forcible entry and detainer action
8 on the basis of other applicable law.

9 (Source: P.A. 97-236, eff. 8-2-11.)